

REMARKS

This Amendment is filed along with an RCE in response to the Office Action of December 8, 2008 and the Advisory Action of March 30, 2009. Reconsideration of the subject application, as amended herein, is respectfully requested for the reasons discussed below.

Applicant would like to thank the Examiner for the courtesy extended during the telephone interview of April 22, 2009.

Briefly, the present application pertains to an anchoring device for providing ligamentory like support between two spaced locations in the body of a patient. The device comprises a head and a base where the head has a plurality of prongs extending divergently therefrom. The prongs are tapered and extend away from the head such that they narrow in cross-section therealong. This design is beneficial for securing the device in soft tissue.

The base includes an aperature which allows a filament to be strung between multiple devices. The aperature also includes a locking member which allows the filament to pass in only one direction.

I. Claim Rejections – 35 USC § 102

All of pending claims 17-33 have been rejected under 35 U.S.C. § 102. Claim 17, the only remaining independent claim, has been amended to include subject matter previously contained in claims 29-31 and subject matter discussed during the recent telephone interview. In view of the amendment to claim 17,

claim 30 is being amended and claims 29 and 31 are being canceled. New dependent claims 52-55 have been added.

A. Claims 17-26, 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Goble et al. (US 5,702,397)

Claims 17-26 and 28 have been rejected by the Examiner pursuant to 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,702,397 to Goble et al. ("Goble"). Goble discloses a bone anchor and method for its use. The bone anchor of Goble is tubular in shape with screw threads on its exterior. See Goble, Fig. 10. Both ends of the tubular bone anchor are open and a filament is thread through the center. See Goble, Fig. 14. The hole in the bone in which the bone anchor is inserted must be drilled. See Goble, Fig. 6. The bone anchor is held in place by the screw threads of the exterior, which fit the bone much like a conventional screw.

The present invention as defined in the pending claims, as amended, is distinct from the teaching of Goble. The present invention comprises a head and a base. Attached to the head are a plurality of tapered prongs, which diverge in a lengthwise direction while narrowing in cross-section. The purpose of the invention is to attach the device to tissue as opposed to attaching to bone.

The screw threads of Goble do not define prongs that are tapered nor prongs which diverge in a lengthwise direction while narrowing in cross section. Therefore, the teaching of Goble does not anticipate the invention of pending claims 17-26 and 28 and Applicant respectfully request withdrawal of the current rejection.

B. Claims 17-20 and 23-33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Colleran et al. (US 2003/0088250)

Claims 17-20 and 23-33 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. Publication No. 2003/0088250 to Colleran et al. ("Colleran"). Colleran discloses a bone anchor system for tissue repair which includes "an anchor body configured to be retained within bone and to selectively restrict movement of a flexible member coupled to the bone anchor" (Colleran ¶ 3). Fig. 4A of Colleran shows a plurality of wings (element 219).

The present invention, as defined in claim 17, requires the prongs to be tapered, each diverging in a lengthwise direction while narrowing in cross section. None of the wings of any of the embodiments of Colleran has a cross section which narrows as the wing extends from the head. Specifically, the wings disclosed in Fig. 4A of Colleran broaden in cross section, or at best, have a constant cross section as they diverge from the head.

Since an anchoring system having tapered prongs extending from the head of the anchor, with each prong diverging in a lengthwise direction while narrowing in cross section is not disclosed in Colleran. The claimed invention is not anticipated by the teaching in Colleran. Applicant therefore respectfully request withdrawal of the rejection based on Colleran.

II. Conclusion

The above amendments and arguments are submitted along with an RCE in response to the pending Final Rejection.

It is respectfully submitted that the claimed invention of the subject application is patentably distinguishable over the teachings in the prior art of record and should therefore be allowed.

Respectfully submitted,

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